



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.16126 of 2021

C.Sathiyamoorthy

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By its Secretary,
Transport Department,
Secretariat,
Chennai - 600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Railway Station Road,
Kumbakonam,
Thanjavur District.

3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
Periyamilaguparai,
Trichy - 1.

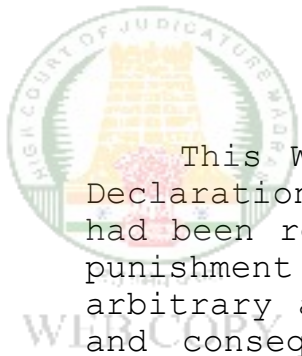
4.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
PallavanSalai,
Chennai - 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of declaration, declaring the action of 2nd and 3rd respondents which had been recovered a sum of Rs.1,09,979/- towards non-implementable punishment of increment cut imposed on him as illegal, arbitrary and violative of article 14 of the Constitution of India and consequently direct the respondents to refund his the recovery amount of Rs.1,09,979/- to the petitioner within the stipulated time that may be fixed by this Court.

For Petitioner : Mr.N.Sudhagar Nagaraj

For Respondents : Mr.S.Shanmugavel,
Standing Counsel for State for R1
Mr.D.Sivaraman,
Standing Counsel for R2 & R3
Mr.A.Swaminathan,
Standing Counsel for R4



ORDER

This Writ Petition has been filed for the issue of a Writ of Declaration, declaring the action of respondent Nos.2 and 3 which had been recovered a sum of Rs.1,09,979/- towards non-implementable punishment of increment cut imposed on the petitioner as illegal, arbitrary and violative of article 14 of the Constitution of India and consequently, direct the respondents to refund the recovery amount of Rs.1,09,979/- to the petitioner within the stipulated time that may be fixed by this Court.

2.According to the petitioner, he was working as Senior Driver and he was allowed to retire from service with effect from 06.01.2015. The respondent No.2 and 3 have passed an order of recovery of a sum of Rs.1,09,979/- towards non-implemented punishment of increment cuts imposed on the petitioner. Aggrieved the same, the petitioner has filed this Writ Petition.

3.The learned counsel appearing for the petitioner submitted that the respondents have no power to recover the said amount, after the petitioner retired from service. He further submitted that the petitioner was retired from service, prior to 12(3) settlement entered between the employer and the respondents management. Therefore, the decision rendered by the Hon'ble Division Bench of this Court in the case of **Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., and others Vs. J.Arumugam and another** is squarely applicable to the facts of the case. Further, it is brought to the notice of this Court that pursuant to the 12(3) settlement, some of the employers challenged the said proceedings and the Division Bench of this Court in **W.A. (MD)No.1270 of 2020 [The State Express Transport Corporation (Tamilnadu) Ltd. Vs. G.Senthil]**, by order dated 15.06.2021 has confirmed the order of the learned Single Judge by quashing the recovery proceedings. Following the said decision, the recovery proceedings passed by the respondents 2 and 3 is liable to be quashed and this writ petition is liable to be allowed.

4.The learned counsel appearing for the respondents would submit that he has not disputed the above said legal position settled by the Court, if no appeal would be filed by the Respondents Corporation. There is no material has been placed before this Court to the effect that the aforesaid judgment has been modified by the Courts.

5.Considering the facts and circumstances of the case, this Court is of the view that the order of recovery passed by the respondents 2 and 3 is liable to be set aside in the light of the judgment passed by the Division Bench of this Court in the case of **J.Arumugam (supra)**. Accordingly, the order of recovery passed by the respondents 2 and 3 is set aside and this Writ Petition is allowed. The respondents are hereby directed to refund the amount



already recovered from the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Secretary,
Government of Tamil Nadu,
Transport Department,
Secretariat,
Chennai - 600 009.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Railway Station Road,
Kumbakonam,
Thanjavur District.
- 3.The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Periyamilaguparai,
Trichy District.
- 4.The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund Trust,
Thiruvalluvar Illam,
PallavanSalai,
Chennai - 600 002.

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-29360[F] dated 16/09/2021)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-29376[F] dated 16/09/2021)

+1 CC to M/s.SPL. GP (SR-29453[F] dated 17/09/2021)

W.P (MD) No.16126 of 2021

16.09.2021

SRK(CO)/RS (07.10.2021) 3P 8C

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